

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 2586**

BY DELEGATES WALTERS, FOLK, ANDERSON, HAMILTON,

O'NEAL, E. EVANS AND PETHTEL

[Originating in the Committee on Finance;

March 10, 2017]



1 A BILL to amend and reenact §5-10-27b of the Code of West Virginia, 1931, as amended; to  
2 amend and reenact §7-14D-9b of said code; to amend and reenact §8-22A-11 of said  
3 code; to amend and reenact §15-2-45 of said code; to amend and reenact §15-2A-6b of  
4 said code; to amend and reenact §16-5V-13 of said code; to amend and reenact §18-7A-  
5 28b of said code; to amend and reenact §18-7B-12a of said code; and to amend and  
6 reenact §51-9-12b of said code, all relating to required minimum distribution of retirement  
7 benefits of plans administered by the Consolidated Public Retirement Board; providing for  
8 treatment of benefits in the event of a members death; and bringing code into conformity  
9 with federal law.

*Be it enacted by the Legislature of West Virginia:*

1 That §5-10-27b of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted; that §7-14D-9b of said code be amended and reenacted; that §8-22A-11 of said code  
3 be amended and reenacted; that §15-2-45 of said code be amended and reenacted; that §15-2A-  
4 6b of said code be amended and reenacted; that §16-5V-13 of said code be amended and  
5 reenacted; that §18-7A-28b of said code be amended and reenacted; that §18-7B-12a of said  
6 code be amended and reenacted; and that §51-9-12b of said code be amended and reenacted,  
7 all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE  
GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;  
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,  
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.**

**§5-10-27b. Federal law minimum required distributions.**

1           The requirements of this section apply to any distribution of a member's or beneficiary's  
2 interest and take precedence over any inconsistent provisions of this code. This provision applies  
3 to plan years beginning after December 31, 1986. Notwithstanding anything in this code to the  
4 contrary, the payment of benefits under this article shall be determined and made in accordance  
5 with Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated  
6 thereunder as applicable to governmental plans. Any term used in this article has the same  
7 meaning as when used in a comparable context in Section 401(a)(9) of the Internal Revenue  
8 Code and the federal regulations promulgated thereunder unless a different meaning is clearly  
9 required by the context or definition in this article. ~~For this purpose, the~~ The following provisions  
10 apply to payments of benefits required under this article:

11           (a) The payment of benefits under the retirement system to any member shall be  
12 distributed to him or her not later than the required beginning date, or be distributed to him or her  
13 commencing not later than the required beginning date, in accordance with regulations prescribed  
14 under Section 401(a)(9) of the Internal Revenue Code, over the life of the member or over the  
15 lives of the member and his or her beneficiary or over a period not extending beyond the life  
16 expectancy of the member and his or her beneficiary: Provided, That the requirements of this  
17 section shall not be construed to grant a right to a form of benefit which is not otherwise available  
18 to a particular member under this retirement system. Benefit payments under this section shall  
19 not be delayed pending, or contingent upon, receipt of an application for retirement from the  
20 member.

21           (b) If a member dies after distribution to him or her has commenced pursuant to this  
22 section but before his or her entire interest in the retirement system has been distributed, then  
23 the remaining portion of that interest shall be distributed at least as rapidly as under the method  
24 of distribution being used at the date of his or her death.

25           (c) If a member dies before distribution to him or her has commenced, then his or her  
26 entire interest in the retirement system ~~will~~ is to be distributed by December 31 of the calendar

27 year containing the fifth anniversary of the member's death, ~~except as follows~~ unless the  
28 provisions of subsection (d) of this section apply.

29 ~~(4)~~ (d) If a member dies before distribution to him or her has commenced, and the  
30 member's interest is payable eligible to be paid in the form of a survivor annuity to a designated  
31 beneficiary, distributions may are to be made over the life of that beneficiary or over a period  
32 certain not greater than the life expectancy of that beneficiary, commencing on or before the  
33 following:

34 (1) December 31 of the calendar year immediately following the calendar year in which  
35 the member died; or

36 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
37 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
38 hundred percent of the survivor benefit, the date distributions are required to begin shall be no  
39 later than the later are to commence on or before the later of:

40 (A) December 31 of the calendar year in which the member would have attained age  
41 seventy and one-half; or

42 (B) The earlier of: (i) December 31 of the calendar year immediately following the calendar  
43 year in which the member died; or (ii) December 31 of the calendar year following the calendar  
44 year in which the spouse died.

45 (e) If a member dies before distribution to him or her has commenced and the survivor  
46 annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary  
47 who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section  
48 may elect to have life expectancy treatment apply to the distribution for purposes of determining  
49 whether any portion of the distribution is an eligible rollover distribution: *Provided*, That any such  
50 election shall not delay the required distribution of the deceased member's entire interest in the  
51 retirement system beyond December 31 of the calendar year containing the fifth anniversary of

52 the member's death as required by subsection (c) of this section: *Provided, however,* That the  
53 election is timely made in a form acceptable to the board on or before the following:

54 (1) December 31 of the calendar year immediately following the calendar year in which  
55 the member died; or

56 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
57 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
58 hundred percent of the survivor benefit, election of life expectancy treatment must be made on or  
59 before the earlier of (A) or (B) below:

60 (A) The later of: (i) December 31 of the calendar year immediately following the calendar  
61 year in which the member died; or (ii) December 31 of the calendar year in which the member  
62 would have attained age seventy and one-half; or

63 (B) October 31 of the calendar year containing the fifth anniversary of the member's death.

## **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

### **ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.**

#### **§7-14D-9b. Federal law minimum required distributions.**

1 The requirements of this section apply to any distribution of a member's or beneficiary's  
2 interest and take precedence over any inconsistent provisions of this plan. This section applies to  
3 plan years beginning after December 31, 1986. Notwithstanding anything in the plan to the  
4 contrary, the payment of benefits under this article shall be determined and made in accordance  
5 with Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated  
6 thereunder as applicable to governmental plans. Any term used in this article has the same  
7 meaning as when used in a comparable context in Section 401(a)(9) of the Internal Revenue  
8 Code and the federal regulations promulgated thereunder unless a different meaning is clearly  
9 required by the context or definition in this article. ~~For this purpose, the~~ The following provisions  
10 apply to payments of benefits required under this article:

11 (a) The payment of benefits under the plan to any member shall be distributed to him or  
12 her not later than the required beginning date, or be distributed to him or her commencing not  
13 later than the required beginning date, in accordance with regulations prescribed under Section  
14 401(a)(9) of the Internal Revenue Code, over the life of the member or over the lives of the  
15 member and his or her beneficiary or over a period not extending beyond the life expectancy of  
16 the member and his or her beneficiary: Provided, That the requirements of this section shall not  
17 be construed to grant a right to a form of benefit which is not otherwise available to a particular  
18 member under this retirement system. Benefit payments under this section shall not be delayed  
19 pending, or contingent upon, receipt of an application for retirement from the member.

20 (b) If a member dies after distribution to him or her has commenced pursuant to this  
21 section but before his or her entire interest in the plan has been distributed, then the remaining  
22 portion of that interest shall be distributed at least as rapidly as under the method of distribution  
23 being used at the date of his or her death.

24 (c) If a member dies before distribution to him or her has commenced, then his or her  
25 entire interest in the retirement system ~~will~~ is to be distributed by December 31 of the calendar  
26 year containing the fifth anniversary of the member's death, ~~except as follows~~ unless the  
27 provisions of subsection (d) of this section apply.

28 (4) (d) If a member dies before distribution to him or her has commenced, and the  
29 member's interest is payable eligible to be paid in the form of a survivor annuity to a designated  
30 beneficiary, distributions may are to be made over the life of that beneficiary or over a period  
31 certain not greater than the life expectancy of that beneficiary, commencing on or before the  
32 following:

33 (1) December 31 of the calendar year immediately following the calendar year in which  
34 the member died; or

35 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
36 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one

37 hundred percent of the survivor benefit, the date distributions are required to begin shall be no  
38 later than the later are to commence on or before the later of:

39 (A) December 31 of the calendar year in which the member would have attained age  
40 seventy and one-half; or

41 (B) ~~The earlier of:~~ (i) December 31 of the calendar year immediately following the calendar  
42 year in which the member died; or (ii) ~~December 31 of the calendar year following the calendar~~  
43 ~~year in which the spouse died.~~

44 (e) If a member dies before distribution to him or her has commenced and the survivor  
45 annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary  
46 who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section  
47 may elect to have life expectancy treatment apply to the distribution for purposes of determining  
48 whether any portion of the distribution is an eligible rollover distribution: *Provided, That any such*  
49 election shall not delay the required distribution of the deceased member's entire interest in the  
50 retirement system beyond December 31 of the calendar year containing the fifth anniversary of  
51 the member's death as required by subsection (c) of this section: *Provided, however, That the*  
52 election is timely made in a form acceptable to the board on or before the following:

53 (1) December 31 of the calendar year immediately following the calendar year in which  
54 the member died; or

55 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
56 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
57 hundred percent of the survivor benefit, election of life expectancy treatment must be made on or  
58 before the earlier of (A) or (B) below:

59 (A) The later of: (i) December 31 of the calendar year immediately following the calendar  
60 year in which the member died; or (ii) December 31 of the calendar year in which the member  
61 would have attained age seventy and one-half; or

62 (B) October 31 of the calendar year containing the fifth anniversary of the member's death.

## CHAPTER 8. MUNICIPAL CORPORATIONS.

### ARTICLE 22A - WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM.

#### §8-22A-11. Federal law minimum required distributions.

1           The requirements of this section apply to any distribution of a member's or beneficiary's  
2 interest and take precedence over any inconsistent provisions of this plan. This section applies to  
3 plan years beginning after December 31, 1986. Notwithstanding anything in the plan to the  
4 contrary, the payment of benefits under this article shall be determined and made in accordance  
5 with Section 401(a)(9) of the Internal Revenue Code and ~~it's~~ the federal regulations promulgated  
6 thereunder as applicable to governmental plans. Any term used in this article has the same  
7 meaning as when used in a comparable context in Section 401(a)(9) of the Internal Revenue  
8 Code and the federal regulations promulgated thereunder unless a different meaning is clearly  
9 required by the context or definition in this article. ~~For this purpose, the~~ The following provisions  
10 apply to payments of benefits required under this article:

11           (a) The payment of benefits under the plan to any member shall be distributed to him or  
12 her not later than the required beginning date, or be distributed to him or her commencing not  
13 later than the required beginning date, in accordance with regulations prescribed under Section  
14 401(a)(9) of the Internal Revenue Code, over the life of the member or over the lives of the  
15 member and his or her beneficiary or over a period not extending beyond the life expectancy of  
16 the member and his or her beneficiary: Provided, That the requirements of this section shall not  
17 be construed to grant a right to a form of benefit which is not otherwise available to a particular  
18 member under this retirement system. Benefit payments under this section shall not be delayed  
19 pending, or contingent on, receipt of an application for retirement from the member.

20           (b) If a member dies after distribution to him or her has commenced pursuant to this  
21 section but before his or her entire interest in the plan has been distributed, then the remaining

22 portion of that interest shall be distributed at least as rapidly as under the method of distribution  
23 being used at the date of his or her death.

24 (c) If a member dies before distribution to him or her has commenced, then his or her  
25 entire interest in the plan ~~shall~~ is to be distributed by December 31 of the calendar year containing  
26 the fifth anniversary of the member's death, ~~except as follows:~~ unless the provisions of subsection  
27 (d) of this section apply.

28 (4) ~~(d)~~ If a member dies before distribution to him or her has commenced, and the  
29 member's interest is payable eligible to be paid in the form of a survivor annuity to a designated  
30 beneficiary, distributions may are to be made over the life of that beneficiary or over a period  
31 certain not greater than the life expectancy of that beneficiary, commencing on or before the  
32 following:

33 (1) December 31 of the calendar year immediately following the calendar year in which  
34 the member died; or

35 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
36 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
37 hundred percent of the survivor benefit, the date distributions are required to begin shall be no  
38 later than the later are to commence on or before the later of:

39 (A) December 31 of the calendar year in which the member would have attained age  
40 seventy and one-half; or

41 (B) The earlier of: (i) December 31 of the calendar year immediately following the calendar  
42 year in which the member died; or (ii) December 31 of the calendar year following the calendar  
43 year in which the spouse died.

44 (e) If a member dies before distribution to him or her has commenced and the survivor  
45 annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary  
46 who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section  
47 may elect to have life expectancy treatment apply to the distribution for purposes of determining

48 whether any portion of the distribution is an eligible rollover distribution: *Provided*, That any such  
49 election shall not delay the required distribution of the deceased member's entire interest in the  
50 retirement system beyond December 31 of the calendar year containing the fifth anniversary of  
51 the member's death as required by subsection (c) of this section: *Provided, however*, That the  
52 election is timely made in a form acceptable to the board on or before the following:

53 (1) December 31 of the calendar year immediately following the calendar year in which  
54 the member died; or

55 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
56 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
57 hundred percent of the survivor benefit, election of life expectancy treatment must be made on or  
58 before the earlier of (A) or (B) below:

59 (A) The later of: (i) December 31 of the calendar year immediately following the calendar  
60 year in which the member died; or (ii) December 31 of the calendar year in which the member  
61 would have attained age seventy and one-half; or

62 (B) October 31 of the calendar year containing the fifth anniversary of the member's death.

## **CHAPTER 15. PUBLIC SAFETY.**

### **ARTICLE 2. WEST VIRGINIA STATE POLICE.**

#### **§15-2-45. Federal law minimum required distributions.**

1 The requirements of this section apply to any distribution of a member's or beneficiary's  
2 interest and take precedence over any inconsistent provisions of this code. This section applies  
3 to plan years beginning after December 31, ~~1998~~ 1986. Notwithstanding anything in the retirement  
4 system to the contrary, the payment of benefits under this article shall be determined and made  
5 in accordance with Section 401(a)(9) of the Internal Revenue Code and the federal regulations  
6 promulgated thereunder as applicable to governmental plans. Any term used in this article has  
7 the same meaning as when used in a comparable context in Section 401(a)(9) of the Internal

8 Revenue Code and the federal regulations promulgated thereunder unless a different meaning is  
9 clearly required by the context or definition in this article. ~~For this purpose, the~~ The following  
10 provisions apply to payments of benefits required under this article:

11 (a) The payment of benefits under the fund to any member shall be distributed to him or  
12 her not later than the required beginning date, or be distributed to him or her commencing not  
13 later than the required beginning date, in accordance with regulations prescribed under Section  
14 401(a)(9) of the Internal Revenue Code, over the life of the member or over the lives of the  
15 member and his or her beneficiary, or over a period not extending beyond the life expectancy of  
16 the member and his or her beneficiary: Provided, That the requirements of this section may not  
17 be construed to grant a right to a form of benefit which is not otherwise available to a particular  
18 member under this retirement system. For purposes of this section, the term “required beginning  
19 date” means April 1 of the calendar year following the later of: (i) The calendar year in which the  
20 member attains age seventy and one-half; or (ii) the calendar year in which the member retires  
21 or otherwise ceases providing covered service under this fund. Benefit payments under this  
22 section shall not be delayed pending, or contingent upon, receipt of an application for retirement  
23 from the member.

24 (b) If a member dies after distribution to him or her has commenced pursuant to this  
25 section but before his or her entire interest in the retirement system has been distributed, then  
26 the remaining portion of that interest shall be distributed at least as rapidly as under the method  
27 of distribution being used at the date of his or her death.

28 (c) If a member dies before distribution to him or her has commenced, then his or her  
29 entire interest in the fund ~~shall~~ is to be distributed by December 31 of the calendar year containing  
30 the fifth anniversary of the member’s death, except as follows unless the provisions of subsection  
31 (d) of this section apply.

32 ~~(4)~~ (d) If a member dies before distribution to him or her has commenced, and the  
33 member’s interest is payable eligible to be paid in the form of a survivor annuity to a designated

34 beneficiary, distributions ~~may~~ are to be made over the life of that beneficiary or over a period  
35 certain not greater than the life expectancy of that beneficiary, commencing on or before the  
36 following:

37 (1) December 31 of the calendar year immediately following the calendar year in which  
38 the participant member died; or

39 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
40 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
41 hundred percent of the survivor benefit, the date distributions are required to begin shall be no  
42 later than the later are to commence on or before the later of:

43 (A) December 31 of the calendar year in which the member would have attained age  
44 seventy and one-half; or

45 (B) The earlier of: (i) December 31 of the calendar year immediately following the calendar  
46 year in which the member died; or (ii) December 31 of the calendar year following the calendar  
47 year in which the spouse died.

48 (e) If a member dies before distribution to him or her has commenced and the survivor  
49 annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary  
50 who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section  
51 may elect to have life expectancy treatment apply to the distribution for purposes of determining  
52 whether any portion of the distribution is an eligible rollover distribution: *Provided, That any such*  
53 election shall not delay the required distribution of the deceased member's entire interest in the  
54 retirement system beyond December 31 of the calendar year containing the fifth anniversary of  
55 the member's death as required by subsection (c) of this section: *Provided, however, That the*  
56 election is timely made in a form acceptable to the board on or before the following:

57 (1) December 31 of the calendar year immediately following the calendar year in which  
58 the member died; or

59           (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
60 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
61 hundred percent of the survivor benefit, election of life expectancy treatment must be made on or  
62 before the earlier of (A) or (B) below:

63           (A) The later of: (i) December 31 of the calendar year immediately following the calendar  
64 year in which the member died; or (ii) December 31 of the calendar year in which the member  
65 would have attained age seventy and one-half; or

66           (B) October 31 of the calendar year containing the fifth anniversary of the member's death.

**ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.**

**§15-2A-6b. Federal law minimum required distributions.**

1           The requirements of this section apply to any distribution of a member's interest and take  
2 precedence over any inconsistent provisions of this retirement system. This section applies to  
3 plan years beginning after December 31, 1986. Notwithstanding anything in the retirement system  
4 to the contrary, the payment of benefits under this article shall be determined and made in  
5 accordance with Section 401(a)(9) of the Internal Revenue Code and the federal regulations  
6 promulgated thereunder as applicable to governmental plans. Any term used in this article has  
7 the same meaning as when used in a comparable context in Section 401(a)(9) of the Internal  
8 Revenue Code and the federal regulations promulgated thereunder unless a different meaning is  
9 clearly required by the context or definition in this article. ~~For this purpose, the~~ The following  
10 provisions apply to payments of benefits required under this article:

11           (a) The payment of benefits under the retirement system to any member shall be  
12 distributed to him or her not later than the required beginning date, or be distributed to him or her  
13 commencing not later than the required beginning date, in accordance with regulations prescribed  
14 under Section 401(a)(9) of the Internal Revenue Code, over the life of the member or over the  
15 lives of the member and his or her beneficiary or over a period not extending beyond the life  
16 expectancy of the member and his or her beneficiary: Provided, That the requirements of this

17 section may not be construed to grant a right to a form of benefit which is not otherwise available  
18 to a particular member under this retirement system. Benefit payments under this section shall  
19 not be delayed pending, or contingent upon, receipt of an application for retirement from the  
20 member.

21 (b) If a member dies after distribution to him or her has commenced pursuant to this  
22 section but before his or her entire interest in the retirement system has been distributed, then  
23 the remaining portion of that interest shall be distributed at least as rapidly as under the method  
24 of distribution being used at the date of his or her death.

25 (c) If a member dies before distribution to him or her has commenced, then his or her  
26 entire interest in the retirement system ~~shall~~ is to be distributed by December 31 of the calendar  
27 year containing the fifth anniversary of the member's death, ~~except as follows~~ unless the  
28 provisions of subsection (d) of this section apply.

29 ~~(d)~~ (d) If a member dies before distribution to him or her has commenced, and the  
30 member's interest is payable eligible to be paid in the form of a survivor annuity to a designated  
31 beneficiary, distributions may are to be made over the life of that beneficiary or over a period  
32 certain not greater than the life expectancy of that beneficiary, commencing on or before the  
33 following:

34 (1) December 31 of the calendar year immediately following the calendar year in which  
35 the member died; or

36 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
37 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
38 hundred percent of the survivor benefit, the date distributions are required to begin shall be no  
39 later than the later are to commence on or before the later of:

40 (A) December 31 of the calendar year in which the member would have attained age  
41 seventy and one-half; or

42           (B) ~~The earlier of: (i) December 31 of the calendar year immediately following the calendar~~  
43 ~~year in which the member died; or (ii) December 31 of the calendar year following the calendar~~  
44 ~~year in which the spouse died.~~

45           (e) If a member dies before distribution to him or her has commenced and the survivor  
46 annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary  
47 who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section  
48 may elect to have life expectancy treatment apply to the distribution for purposes of determining  
49 whether any portion of the distribution is an eligible rollover distribution: *Provided*, That any such  
50 election shall not delay the required distribution of the deceased member's entire interest in the  
51 retirement system beyond December 31 of the calendar year containing the fifth anniversary of  
52 the member's death as required by subsection (c) of this section: *Provided, however*, That the  
53 election is timely made in a form acceptable to the board on or before the following:

54           (1) December 31 of the calendar year immediately following the calendar year in which  
55 the member died; or

56           (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
57 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
58 hundred percent of the survivor benefit, election of life expectancy treatment must be made on or  
59 before the earlier of (A) or (B) below:

60           (A) The later of: (i) December 31 of the calendar year immediately following the calendar  
61 year in which the member died; or (ii) December 31 of the calendar year in which the member  
62 would have attained age seventy and one-half; or

63           (B) October 31 of the calendar year containing the fifth anniversary of the member's death.

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.**

#### **§16-5V-13. Federal law minimum required distributions.**

1           The requirements of this section apply to any distribution of a member's or beneficiary's  
2 interest and take precedence over any inconsistent provisions of this plan. This section applies to  
3 plan years beginning after December 31, 1986. Notwithstanding anything in the plan to the  
4 contrary, the payment of benefits under this article shall be determined and made in accordance  
5 with Section 401(a)(9) of the Internal Revenue Code and ~~its~~ federal regulations promulgated  
6 thereunder as applicable to governmental plans. Any term used in this article has the same  
7 meaning as when used in a comparable context in Section 401(a)(9) of the Internal Revenue  
8 Code and the federal regulations promulgated thereunder unless a different meaning is clearly  
9 required by the context or definition in this article. ~~For this purpose, the~~ The following provisions  
10 apply to payments of benefits required under this article:

11           (a) The payment of benefits under the plan to any member shall be distributed to him or  
12 her not later than the required beginning date, or be distributed to him or her commencing not  
13 later than the required beginning date, in accordance with regulations prescribed under Section  
14 401(a)(9) of the Internal Revenue Code, over the life of the member or over the lives of the  
15 member and his or her beneficiary or over a period not extending beyond the life expectancy of  
16 the member and his or her beneficiary: Provided, That the requirements of this section may not  
17 be construed to grant a right to a form of benefit which is not otherwise available to a particular  
18 member under this retirement system. Benefit payments under this section shall not be delayed  
19 pending, or contingent upon, receipt of an application for retirement from the member.

20           (b) If a member dies after distribution to him or her has commenced pursuant to this  
21 section but before his or her entire interest in the plan has been distributed, then the remaining  
22 portion of that interest shall be distributed at least as rapidly as under the method of distribution  
23 being used at the date of his or her death.

24           (c) If a member dies before distribution to him or her has commenced, then his or her  
25 entire interest in the plan ~~shall~~ is to be distributed by December 31 of the calendar year containing

26 the fifth anniversary of the member's death, ~~except as follows~~ unless the provisions of subsection  
27 (d) of this section apply.

28 ~~(4)~~ (d) If a member dies before distribution to him or her has commenced, and the  
29 member's interest is payable eligible to be paid in the form of a survivor annuity to a designated  
30 beneficiary, distributions may are to be made over the life of that beneficiary or over a period  
31 certain not greater than the life expectancy of the that beneficiary, commencing on or before the  
32 following:

33 (1) December 31 of the calendar year immediately following the calendar year in which  
34 the member died; or

35 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
36 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
37 hundred percent of the survivor benefit, the date distributions are required to begin shall be no  
38 later than the later are to commence on or before the later of:

39 (A) December 31 of the calendar year in which the member would have attained age  
40 seventy and one-half; or

41 (B) The earlier of: (i) December 31 of the calendar year immediately following the calendar  
42 year in which the member died; or (ii) December 31 of the calendar year following the calendar  
43 year in which the spouse died.

44 (e) If a member dies before distribution to him or her has commenced and the survivor  
45 annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary  
46 who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section  
47 may elect to have life expectancy treatment apply to the distribution for purposes of determining  
48 whether any portion of the distribution is an eligible rollover distribution: *Provided*, That any such  
49 election shall not delay the required distribution of the deceased member's entire interest in the  
50 retirement system beyond December 31 of the calendar year containing the fifth anniversary of

51 the member's death as required by subsection (c) of this section: *Provided, however,* That the  
52 election is timely made in a form acceptable to the board on or before the following:

53 (1) December 31 of the calendar year immediately following the calendar year in which  
54 the member died; or

55 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
56 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
57 hundred percent of the survivor benefit, election of life expectancy treatment must be made on or  
58 before the earlier of (A) or (B) below:

59 (A) The later of: (i) December 31 of the calendar year immediately following the calendar  
60 year in which the member died; or (ii) December 31 of the calendar year in which the member  
61 would have attained age seventy and one-half; or

62 (B) October 31 of the calendar year containing the fifth anniversary of the member's death.

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

#### **§18-7A-28b. Federal law minimum required distributions.**

1 The requirements of this section apply to any distribution of a member's or beneficiary's  
2 interest and take precedence over any inconsistent provisions of this retirement system. This  
3 section applies to plan years beginning after December 31, 1986. Notwithstanding anything in the  
4 retirement system to the contrary, the payment of benefits under this article shall be determined  
5 and made in accordance with Section 401(a)(9) of the Internal Revenue Code and the regulations  
6 promulgated thereunder as applicable to governmental plans. Any term used in this article has  
7 the same meaning as when used in a comparable context in Section 401(a)(9) of the Internal  
8 Revenue Code and the federal regulations promulgated thereunder unless a different meaning is  
9 clearly required by the context or definition in this article. ~~For this purpose, the~~ The following  
10 provisions apply to payments of benefits required under this article:

11 (a) The payment of benefits under the retirement system to any member shall be  
12 distributed to him or her not later than the required beginning date, or be distributed to him or her  
13 commencing not later than the required beginning date, in accordance with regulations prescribed  
14 under Section 401(a)(9) of the Internal Revenue Code, over the life of the member or over the  
15 lives of the member and his or her beneficiary or over a period not extending beyond the life  
16 expectancy of the member and his or her beneficiary: Provided, That the requirements of this  
17 section may not be construed to grant a right to a form of benefit which is not otherwise available  
18 to a particular member under this retirement system. Benefit payments under this section shall  
19 not be delayed pending, or contingent upon, receipt of an application for retirement from the  
20 member.

21 (b) If a member dies after distribution to him or her has commenced pursuant to this  
22 section but before his or her entire interest in the retirement system has been distributed, then  
23 the remaining portion of that interest shall be distributed at least as rapidly as under the method  
24 of distribution being used at the date of his or her death.

25 (c) If a member dies before distribution to him or her has commenced, then his or her  
26 entire interest in the retirement system ~~shall~~ is to be distributed by December 31 of the calendar  
27 year containing the fifth anniversary of the member's death, ~~except as follows:~~ unless the  
28 provisions of subsection (d) of this section apply.

29 ~~(1)~~ (d) If a member dies before distribution to him or her has commenced, and the  
30 member's interest is payable eligible to be paid in the form of a survivor annuity to a designated  
31 beneficiary, distributions may are to be made over the life of that beneficiary or over a period  
32 certain not greater than the life expectancy of that beneficiary, commencing on or before the  
33 following:

34 (1) December 31 of the calendar year immediately following the calendar year in which  
35 the member died; or

36 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
37 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
38 hundred percent of the survivor benefit, the date distributions are required to begin shall not be  
39 earlier than the later are to commence on or before the later of:

40 (A) December 31 of the calendar year in which the member would have attained age  
41 seventy and one-half; or

42 (B) ~~The earlier of:~~ (i) December 31 of the calendar year immediately following the calendar  
43 year in which the member died; or (ii) ~~December 31 of the calendar year following the calendar~~  
44 ~~year in which the spouse died.~~

45 (e) If a member dies before distribution to him or her has commenced and the survivor  
46 annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary  
47 who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section  
48 may elect to have life expectancy treatment apply to the distribution for purposes of determining  
49 whether any portion of the distribution is an eligible rollover distribution: *Provided, That any such*  
50 election shall not delay the required distribution of the deceased member's entire interest in the  
51 retirement system beyond December 31 of the calendar year containing the fifth anniversary of  
52 the member's death as required by subsection (c) of this section: *Provided, however, That the*  
53 election is timely made in a form acceptable to the board on or before the following:

54 (1) December 31 of the calendar year immediately following the calendar year in which  
55 the member died; or

56 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
57 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
58 hundred percent of the survivor benefit, election of life expectancy treatment must be made on or  
59 before the earlier of (A) or (B) below:

60           (A) The later of: (i) December 31 of the calendar year immediately following the calendar  
61 year in which the member died; or (ii) December 31 of the calendar year in which the member  
62 would have attained age seventy and one-half; or

63           (B) October 31 of the calendar year containing the fifth anniversary of the member's death.

## **ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.**

### **§18-7B-12a. Federal minimum required distributions.**

1           The requirements of this section apply to any distribution of a member's or beneficiary's  
2 interest and take precedence over any inconsistent provisions of this defined contribution system.  
3 This section applies to plan years beginning after December 31, 1986. Notwithstanding anything  
4 in this system to the contrary, the payment of benefits under this article shall be determined and  
5 made in accordance with Section 401(a)(9) of the Internal Revenue Code and the federal  
6 regulations promulgated thereunder as applicable to governmental plans, including without  
7 limitation the incidental death benefit provisions of Section 401(a)(9)(G) of the Internal Revenue  
8 Code and the regulations thereunder. Any term used in this article has the same meaning as  
9 when used in a comparable context in Section 401(a)(9) of the Internal Revenue Code and the  
10 federal regulations promulgated thereunder unless a different meaning is clearly required by the  
11 context or definition in this article. ~~For this purpose, the~~ The following provisions apply to  
12 payments of benefits required under this article:

13           (a) The payment of benefits under the defined contribution system to any member shall  
14 be distributed to him or her not later than the required beginning date, or be distributed to him or  
15 her commencing not later than the required beginning date, in accordance with regulations  
16 prescribed under Section 401(a)(9) of the Internal Revenue Code, over the life of the member or  
17 over the lives of the member and his or her beneficiary or over a period not extending beyond the  
18 life expectancy of the member and his or her beneficiary: Provided, That the requirements of this  
19 section may not be construed to grant a right to a form of benefit which are not otherwise available  
20 to a particular member under this retirement system. Benefit payments under this section shall

21 not be delayed pending, or contingent upon, receipt of an application for retirement from the  
22 member.

23 (b) If a member dies after distribution to him or her has commenced pursuant to this  
24 section but before his or her entire interest in the system has been distributed, then the remaining  
25 portion of that interest shall be distributed at least as rapidly as under the method of distribution  
26 being used at the date of his or her death.

27 (c) If a member dies before distribution to him or her has commenced, then his or her  
28 entire interest in the retirement system ~~shall~~ is to be distributed by December 31 of the calendar  
29 year containing the fifth anniversary of the member's death, ~~except as follows~~ unless the  
30 provisions of subsection (d) of this section apply.

31 ~~(d)~~ (d) If a member dies before distribution to him or her has commenced, and the  
32 member's interest is payable eligible to be paid in the form of a survivor annuity to a designated  
33 beneficiary, distributions may are to be made over the life of that beneficiary or over a period  
34 certain not greater than the life expectancy of that beneficiary, commencing on or before the  
35 following:

36 (1) December 31 of the calendar year immediately following the calendar year in which  
37 the member participant died; or

38 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
39 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
40 hundred percent of the survivor benefit, the date distributions are required to begin shall be no  
41 later than the later are to commence on or before the later of:

42 (A) December 31 of the calendar year in which the member would have attained age  
43 seventy and one-half years; or

44 (B) The earlier of: (i) December 31 of the calendar year immediately following the calendar  
45 year in which the member died; or (ii) December 31 of the calendar year following the calendar  
46 year in which the spouse died.

47 (e) If a member dies before distribution to him or her has commenced and the survivor  
48 annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary  
49 who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section  
50 may elect to have life expectancy treatment apply to the distribution for purposes of determining  
51 whether any portion of the distribution is an eligible rollover distribution: *Provided*, That any such  
52 election shall not delay the required distribution of the deceased member's entire interest in the  
53 retirement system beyond December 31 of the calendar year containing the fifth anniversary of  
54 the member's death as required by subsection (c) of this section: *Provided, however*, That the  
55 election is timely made in a form acceptable to the board on or before the following:

56 (1) December 31 of the calendar year immediately following the calendar year in which  
57 the member died; or

58 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
59 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
60 hundred percent of the survivor benefit, election of life expectancy treatment must be made on or  
61 before the earlier of (A) or (B) below:

62 (A) The later of: (i) December 31 of the calendar year immediately following the calendar  
63 year in which the member died; or (ii) December 31 of the calendar year in which the member  
64 would have attained age seventy and one-half; or

65 (B) October 31 of the calendar year containing the fifth anniversary of the member's death.

66 ~~(d)~~ (f) For purposes of this section, any amount paid to a child of a member will be treated  
67 as if it had been paid to the surviving spouse of the member if the remaining amount becomes  
68 payable to the surviving spouse when the child reaches the age of majority.

## **CHAPTER 51. COURTS AND THEIR OFFICERS.**

### **ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.**

#### **§51-9-12b. Federal minimum required distributions.**

1           The requirements of this section apply to any distribution of a member's or beneficiaries'  
2 interest and take precedence over any inconsistent provisions of this retirement system. This  
3 section applies to plan years beginning after December 31, 1986. Notwithstanding anything in the  
4 retirement system to the contrary, the payment of benefits under this article shall be determined  
5 and made in accordance with Section 401(a)(9) of the Internal Revenue Code and the federal  
6 regulations promulgated thereunder as applicable to governmental plans. Any term used in this  
7 article has the same meaning as when used in a comparable context in Section 401(a)(9) of the  
8 Internal Revenue Code and the federal regulations promulgated thereunder unless a different  
9 meaning is clearly required by the context or definition in this article. For this purpose, the ~~The~~  
10 following provisions apply to payments of benefits required under this article:

11           (a) The payment of benefits under the retirement system to any member shall be  
12 distributed to him or her not later than the required beginning date, or be distributed to him or her  
13 commencing not later than the required beginning date, in accordance with ~~Treasury Regulations~~  
14 regulations prescribed under Section 401(a)(9) of the Internal Revenue Code, over the life of the  
15 member or over the lives of the member and his or her beneficiary or over a period not extending  
16 beyond the life expectancy of the member and his or her beneficiary: Provided, That the  
17 requirements of this section may not be construed to grant a right to a form of benefit which is not  
18 otherwise available to a particular member under this retirement system. Benefit payments under  
19 this section shall not be delayed pending, or contingent upon, receipt of an application for  
20 retirement from the member.

21           (b) If a member dies after distribution to him or her has commenced pursuant to this  
22 section but before his or her entire interest in the retirement system has been distributed, then  
23 the remaining portion of that interest shall be distributed at least as rapidly as under the method  
24 of distribution being used at the date of his or her death.

25           (c) If a member dies before distribution to him or her has commenced, then his or her  
26 entire interest in the retirement system ~~shall~~ is to be distributed by December 31 of the calendar

27 year containing the fifth anniversary of the member's death, ~~except as follows:~~ unless the  
28 provisions of subsection (d) of this section apply.

29 ~~(4)~~ (d) If a member dies before distribution to him or her has commenced, and the  
30 member's interest is payable eligible to be paid in the form of a survivor annuity to a designated  
31 beneficiary, distributions may are to be made over the life of that beneficiary or over a period  
32 certain not greater than the life expectancy of the that beneficiary, commencing on or before the  
33 following:

34 (1) December 31 of the calendar year immediately following the calendar year in which  
35 the member died; or

36 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
37 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
38 hundred percent of the survivor benefit, the date distributions are required to begin shall be no  
39 later than the later are to commence on or before the later of:

40 (A) December 31 of the calendar year in which the member would have attained age  
41 seventy and one-half; or

42 (B) The earlier of: (i) December 31 of the calendar year immediately following the calendar  
43 year in which the member died; or (ii) December 31 of the calendar year following the calendar  
44 year in which the spouse died.

45 (e) If a member dies before distribution to him or her has commenced and the survivor  
46 annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary  
47 who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section  
48 may elect to have life expectancy treatment apply to the distribution for purposes of determining  
49 whether any portion of the distribution is an eligible rollover distribution: *Provided*, That any such  
50 election shall not delay the required distribution of the deceased member's entire interest in the  
51 retirement system beyond December 31 of the calendar year containing the fifth anniversary of

52 the member's death as required by subsection (c) of this section: *Provided, however,* That the  
53 election is timely made in a form acceptable to the board on or before the following:

54 (1) December 31 of the calendar year immediately following the calendar year in which  
55 the member died; or

56 (2) If the member's sole designated beneficiary is either the surviving spouse or a former  
57 spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one  
58 hundred percent of the survivor benefit, election of life expectancy treatment must be made on or  
59 before the earlier of (A) or (B) below:

60 (A) The later of: (i) December 31 of the calendar year immediately following the calendar  
61 year in which the member died; or (ii) December 31 of the calendar year in which the member  
62 would have attained age seventy and one-half; or

63 (B) October 31 of the calendar year containing the fifth anniversary of the member's death.